



Legal Analysis of the Implementation of Criminal Sanctions in the Crime of Togel Gambling: Study of Court Decision Number 420/PID.B/2021/PN.SIM

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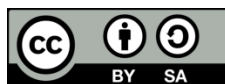
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ABSTRACT

The rampant practice of lottery gambling in society reflects a failure in building public rationality that causes life to become more speculative, marked by uncertainty, instant mindsets, and dependence on luck through numbers, which ultimately erodes the values of hard work and discipline, while this study attempts to answer several main problem formulations, namely the factors that encourage someone to gamble on the lottery, the impacts caused to society, and how criminal responsibility is imposed on lottery gamblers, where this study uses a library research method (Library Research) by examining various legal sources such as laws and regulations, legal theories, court decisions, and expert opinions in order to find solutions to existing problems, so that it is concluded that the main factors that encourage lottery gamblers include gambling as a hobby, filling free time, environmental influences, and efforts to improve the economy, while the impacts of this gambling are very broad, including increased crime rates, financial problems, health problems, wasting time, wasting resources, social losses, wasting opportunities, and potential corruption, and based on the facts revealed in court, the Public Prosecutor charged the defendant with alternative charges based on Article 303 Paragraph (1) 1 and Article 303 Paragraph (1) 2 of the Criminal Code, so that the defendant can be held criminally responsible as regulated in Article 303 Paragraph (1) 2 of the Criminal Code in the Second Indictment.

Keywords: Togel Gambling, Criminal Liability, Social and Economic Impacts.

1. INTRODUCTION

Gambling is a form of crime that is still rampant in Indonesia, especially in the form of lottery (*toto gelap*), which is widely known in various regions as a form of illegal gambling that is rooted in society. Although it has been strictly prohibited by law, this gambling activity continues with various modes of operation, both directly and online. In many cases, gambling not only harms the perpetrators themselves but also has negative social impacts such as increasing crime rates, misuse of household finances, and damage to public morals (Saputra, 2021). The government has implemented various policies to reduce gambling rates, one of which is by implementing criminal sanctions in accordance with the Criminal Code (KUHP) and special laws regulating gambling. However, in practice, the application of criminal sanctions against gambling perpetrators often encounters various challenges, especially related to disparities in judges' decisions in sentencing (Rachman, 2020).

From a legal perspective, gambling is included in the criminal acts regulated in Article 303 of the Criminal Code and Article 303 bis of the Criminal Code, which stipulates that anyone who intentionally provides gambling facilities or participates in gambling activities can be subject to imprisonment and a fine (Marzuki, 2021). On the other hand, in the context of Islamic law, gambling is also prohibited as stated in Article 2 of Law Number 7 of 1974 concerning the Regulation of Gambling, which emphasizes that all forms of gambling are contrary to the morals and social values applicable in Indonesia (Sutrisno, 2019). Although legal regulations are clear, in practice there are often differences in the application of criminal sanctions to gambling perpetrators, including in the case of lottery gambling which is the object of this study. The court decision in case number 420 / PID.B / 2021 / PN.SIM is one example of how the law is applied to lottery gambling cases and the extent to which the sanctions imposed are effective in providing a deterrent effect on perpetrators (Putri, 2022).

This paper aims to analyze the application of criminal sanctions in the crime of lottery gambling with a case study of court decision number 420/PID.B/2021/PN.SIM. This study was conducted to understand whether the application of the law in the decision is in accordance with the principles of legal certainty, justice, and legal benefits in the criminal justice system in Indonesia. In addition, this study will also compare the decision with similar cases to see the consistency of the application of the law by law enforcement officers in prosecuting lottery gambling (Sari, 2021). By analyzing the legal aspects of this decision, it is hoped that it can provide recommendations for policy makers in formulating more effective regulations to eradicate illegal gambling in Indonesia.

Based on the initial analysis of court decisions and applicable regulations, the hypothesis proposed in this study is that there is a possibility of disparity in the application of criminal sanctions for perpetrators of lottery gambling crimes,

which is caused by differences in judges' considerations in viewing the elements of the crime and factors that mitigate or aggravate the sentence for the defendant (Hidayat, 2020). In addition, there is an allegation that the criminal sanctions imposed on gambling perpetrators have not provided an optimal deterrent effect, considering that there are still many similar cases that continue to occur. Therefore, this study will further examine how judges consider legal aspects in making decisions against lottery gambling crimes, as well as how effective the sanctions applied are in reducing gambling rates in society (Anwar, 2019).

2. RESEARCH METHOD

This study uses a library research method by referring to various primary, secondary, and tertiary legal materials, including laws and regulations such as Article 303 and 303 bis of the Criminal Code, Law Number 7 of 1974 concerning the Control of Gambling, and related court decisions, especially Decision Number 420/PID.B/2021/PN.SIM, which is studied to understand the application of criminal sanctions against the crime of lottery gambling (Marzuki, 2021); in addition, this study also refers to the theory of criminal law put forward by experts in order to analyze the elements of criminal acts in gambling and the conformity of the judge's decision with the principles of justice, legal certainty, and legal benefits (Hidayat, 2020); In supporting this study, the opinions of legal scholars such as Sudarto (2019) and Muladi (2021) were also used as an academic basis in evaluating the effectiveness of criminal sanctions and legal solutions that can be applied in dealing with lottery gambling, so that this study provides theoretical and practical contributions to the study of criminal law in Indonesia (Rachman, 2022).

3. RESULT AND ANALYSIS

Factors That Drive Perpetrators to Gamble on Togel

A person's actions in gambling on lottery are not only based on one causal factor, but also have various goals that are considered in making decisions to gamble. Schutz (1967) explains that in social actions there is a concept in order to motive, namely the goal that an individual wants to achieve in carrying out an action (Schutz, 1967). Through this concept, the motives behind someone gambling on lottery can be categorized into several main aspects, namely as a hobby, filling free time, environmental influences, and efforts to improve the economy.

First, the motive for gambling as a hobby is found in individuals who routinely place bets without considering the financial aspect. Gamblers who make lottery a hobby enjoy gambling as a form of personal pleasure that provides its own sensation. They tend to spend a lot of time and money gambling without considering the potential losses incurred. In fact, for those who are addicted, losing

or winning is not the main factor, because the most important thing is the gambling experience itself (Marlatt, 2003).

Second, lottery gambling is often used as a way to fill free time, especially for individuals who are looking for entertainment after carrying out daily work activities. This group usually comes from the middle social class with a fairly stable income, where they do not depend on gambling results to meet their living needs. For them, gambling is a way to relieve stress and entertain themselves, although in practice they still spend some money that has the potential to cause financial losses (Cornish & Clarke, 1986).

Third, the influence of the social environment plays a role in encouraging someone to get involved in lottery gambling. Individuals who live in an environment dominated by a gambling culture will be more susceptible to exposure to deviant subcultural norms that consider gambling to be normal. In this case, gambling is not only an economic activity, but also a means to gain social acceptance and improve relations with their community. This phenomenon is in line with the differential association theory put forward by Sutherland (1947), which states that a person learns deviant behavior through social interaction with individuals or groups who have similar behavioral patterns (Sutherland, 1947).

Fourth, many individuals see lottery gambling as a way to improve the economy and make money quickly. Field findings show that gambling is not only done by lower-class people who experience economic limitations, but also by middle-class people who want to gain financial benefits in a more instant way. This economic motivation is in line with the concept of rational choice theory, which states that individuals tend to choose actions that provide the greatest benefits with risks that they consider tolerable (Becker, 1968).

Thus, based on various existing theories and studies, lottery gambling is not only seen as an illegal activity from a criminal law perspective, but also as a social phenomenon that has various dimensions and diverse motives. Therefore, the approach to overcoming gambling practices must consider sociological, economic, and cultural aspects that influence individual behavior in society (Felson & Eckert, 2015).

The Impact of Togel Gambling on Society

Togel gambling has a significant impact on various aspects of society, including economic, social, and psychological domains. One of the primary effects of togel gambling is financial problems, which seriously affect individuals involved in gambling activities. Many gamblers spend money that should be allocated for essential needs such as food, housing, and education, leading to debt and poverty in their households (Sulistiyowati, 2020). Additionally, mental health disorders are prevalent among gambling addicts. They often experience stress, anxiety, and depression due to financial pressures and attempts to recover lost money (Marlina, 2021).

Furthermore, time wastage is another consequence of togel gambling. Gamblers frequently spend hours daily selecting numbers, monitoring results, and strategizing their play, thereby sacrificing opportunities to engage in more productive and meaningful activities (Setiawan, 2022). This phenomenon is also linked to rising crime rates, as illegal togel gambling is often associated with other criminal activities such as money laundering, extortion, and fraudulent schemes that harm society at large (Hidayat, 2019).

On the other hand, togel gambling results in resource misallocation, wherein government and law enforcement agencies must allocate significant resources to combat illegal gambling instead of channeling them into more beneficial sectors such as education and healthcare (Wibowo, 2018). Another notable consequence is social damage, as gambling can disrupt relationships among individuals, particularly within families. Gambling addicts often withdraw from their social environment and may even engage in manipulative and fraudulent behavior to obtain money for gambling (Ardiansyah, 2020).

Moreover, wasted life opportunities constitute another major consequence of togel gambling. Many individuals sacrifice their chances for self-improvement and career advancement due to their obsession with gambling, leading them to neglect education, employment, and personal development (Rahayu, 2021). In some cases, illegal togel gambling also fosters corruption, as there is a risk that government officials may accept bribes from illegal gambling operators to allow their businesses to continue operating without legal consequences (Santoso, 2022).

From the various aspects discussed, it can be concluded that the effects of togel gambling are not limited to individual gamblers but also extend to their families, communities, and the broader socio-economic system. Therefore, a more systematic approach is needed to address and mitigate the negative impacts of togel gambling, both through legal enforcement and social interventions..

Criminal Liability for Perpetrators of Togel Gambling Crimes

Togel gambling is one of the forms of illegal gambling that has significant social and economic impacts on society. Based on Decision Number 420/Pid.B/2021/PN.Sim, the defendant Kelana Saputra alias Putra was charged and sentenced under Article 303 Paragraph (1) Clause 1 of the Indonesian Penal Code (KUHP) for being legally and convincingly proven to have committed a gambling offense by intentionally offering or providing opportunities for the public to engage in gambling without proper authorization (Kurniawan, 2021).

This case began with an investigation by law enforcement officers following reports from the community regarding the rampant practice of togel gambling in Nagori Kampung Baru, Ujung Padang District, Simalungun Regency. The defendant was caught in a sting operation while conducting gambling activities with evidence including betting paper, a mobile phone, writing tools, and cash from bets (Setiawan, 2022). Based on the facts revealed during the trial, the defendant

managed the gambling operation by receiving number bets via short messages (SMS), recording the numbers, and sending the recap to the main bookie who remains a fugitive (Hidayat, 2021).

The Public Prosecutor (JPU) filed two alternative charges under Article 303 Paragraph (1) Clause 1 of the Penal Code and Article 303 Paragraph (1) Clause 2 of the Penal Code, which regulate unauthorized gambling and the organization of gambling as a source of livelihood. Based on legal considerations, the Panel of Judges determined that the elements of the gambling crime were fulfilled and sentenced the defendant to 1 year and 2 months of imprisonment while ordering the confiscation of evidence for destruction or seizure for the state (Wibowo, 2020).

From the perspective of criminology and criminal law, this case demonstrates that togel gambling not only affects the individuals involved but also contributes to increased crime rates in the community. Law enforcement against illegal gambling needs to be carried out consistently to suppress practices that can disrupt social order and reduce potential corruption within the criminal justice system (Ardiansyah, 2019). Furthermore, criminal policy in addressing gambling should incorporate both penal (criminal law) and non-penal (social approaches) to ensure effective preventive measures (Rahayu, 2022). With this ruling, it can be concluded that criminal liability for perpetrators of gambling crimes has been effectively enforced under applicable legal provisions. However, to prevent similar cases in the future, a more holistic approach is needed, including increasing legal education for the public and stricter oversight of illegal gambling activities.

4. CONCLUSION

A person's actions in carrying out lottery gambling are not only based on a certain cause, but also have goals that are taken into consideration, where the main driving factors for the perpetrators include gambling as a hobby, filling free time, environmental influences, and efforts to improve the economy, while the negative impacts caused by this gambling practice include various aspects, such as financial problems, mental health disorders, wasting time, increasing crime rates, wasting resources, social losses, loss of opportunities for a better life, and potential corruption, and based on the facts revealed at the trial, the Public Prosecutor (JPU) charged the defendant with alternative charges based on Article 303 Paragraph (1) 1 and Article 303 Paragraph (1) 2 of the Criminal Code, so that the defendant can be held criminally responsible as regulated in Article 303 Paragraph (1) 2 of the Criminal Code, thus, the advice that can be given in this study is that the government and law enforcement officers need to be more assertive and have a vision that is in line with efforts to eradicate lottery gambling, both manually and online, the public is expected to have a higher awareness to avoid bad habits such

as gambling, and a mechanism is needed which is clear in protecting witnesses to ensure justice in the legal process.

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